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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/427,388	10/26/1999	KEVIN LLOYD GRIMES	RCA-89.086	3105
24498	7590	01/10/2008	EXAMINER	
THOMSON LICENSING LLC Two Independence Way Suite 200 PRINCETON, NJ 08540				HARPER, KEVIN C
ART UNIT		PAPER NUMBER		
2616				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/427,388	GRIMES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kevin Harper	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 10/12/07.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1 and 3-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

In view of the appeal brief filed on October 12, 2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

***Response to Arguments***

Applicant's arguments filed October 12, 2007 have been fully considered but they are not persuasive.

1. In response to applicant's argument that Yu is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Yu provides a means for changing operating modes in

an electronic device which is pertinent to the change of data modes as similarly described in figs. 4-7 of the application.

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yu provides motivation for switching the operation of an electronic device as appropriate (col. 4, lines 10-17; note: switching the mode of operation from HVS to XCP for processing user data when desired by the user).

Applicant's remaining arguments have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al. (US 5,982,411) in view of and applicant's admitted prior art.

3. Regarding claims 1 and 11-12, Eyer discloses an adaptive transport decoder (figs. 1-2) comprising a source of a first stream of packets (item 130 or 210) each including a payload and having a first transport protocol (col. 1, lines 15-16; col. 8, lines 2-5 and 24-26; note: MPEG packets), a source of a second stream of packets (item 140 or 250), a protocol decoder (fig. 1, item

110; fig. 2, item 265; col. 7, line 65 through col. 8, line 7) coupled to the sources for extracting payloads from the packets, and a selector (fig. 2, items 275, 240 and 250) having input terminals (items 240 and 250) coupled to the first and second packet stream sources and an output terminal coupled to the protocol decoder (note: output terminal from item 240 or 250) for selectively coupling one of the first stream of sources to the decoder (col. 8, lines 35-39; col. 7, line 65 through col. 8, line 1; col. 8, lines 10-13; note: only one desired stream is sent from the demodulators to the decoder based on the user signal). Further regarding claim 11, the payloads of the packets are processed (note: standardized MPEG - col. 1, line 15). Further regarding claim 12, data from the packet header (col. 3, line 40; note: PID in header of standardized MPEG packets) is stored in a register for later use by the decoder (col. 7, line 65 through col. 8, line 1; col. 8, lines 24-26 and 31-39; col. 4, line 56 through col. 5, line 2).

4. However, Eyer does not disclose different transport protocols for the first and second packet streams. Applicant's admitted prior art discloses that packets from different streams have different transport protocols (pages 1-2; note: ATSC for terrestrial broadcasts has a different MPEG format than DSS for satellite broadcasts). Therefore, it would be obvious to one skilled in the art at the time the invention was made to have different transport protocols in the invention of Eyer in order to provide data as related to the communication medium or preference, as is known in the art (specification, page 1, note: prior-art proprietary transport formats).

Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al. in view of applicant's admitted prior art, as applied to claim 1 above, and further in view of Yu (US 5,410,709).

5. Regarding claims 3 and 10, Eyer discloses the adaptive protocol decoder as described in the rejection of claim 1 above. Further, the protocol processing function (item s65) switches the

processing of packets between a first stream source (item 210) and a second stream source (item 215) (col. 8, lines 35-39). However, Eyer does not disclose that the digital processing function (item 265) comprises a processor. Yu discloses a processor (fig. 1, item 14) within a device (fig. 1). The processor is responsive to control programs (col. 3, lines 40-46; col. 4, lines 3-5 and 51-67). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a processor using control programs in the processing function of Eyer in order to flexibly perform processing functions (Yu, col. 4, line 67 through col. 5, line 10; col. 3, lines 55-60).

6. Regarding claims 4-9, Eyer does not disclose that processor includes a memory and the control programs each comprise a packet handler, several interrupt drivers and an interrupt vector containing a pointer to an interrupt driver, and reallocating a buffer. Yu a processor that includes a memory (fig. 1, item 18; col. 5, lines 5-6) and discloses a controlling system (fig. 1) that has interrupt vectors for pointing to stored control information (col. 4, line 67 through col. 5, line 7) and user information (fig. 2b). The control programs are chosen using a third control program (col. 5, lines 10-15) and a buffer is reallocated (Figure 3a, step MLX DR., “index into interrupt”). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a interrupt drivers and interrupt vectors for pointing to memory locations and reallocate memory locations to a buffer in the invention of Eyer in order to appropriately invoke control information (Yu, col. 3, lines 56-64).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Funakoshi (US 6,430,236) discloses an adaptive protocol decoder (fig. 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached at 571-272-2092. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

January 4, 2008



CHI PHAM  
SUPERVISORY PATENT EXAMINER  
1/7/09